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**FISCAL IMPACT STATEMENT**

**LS 7187**

**BILL NUMBER:** SB 385

**NOTE PREPARED:** Apr 9, 2013

**BILL AMENDED:** Apr 9, 2013

**SUBJECT:** Wholesale Sewage Service Rates.

**FIRST AUTHOR:** Sen. Charbonneau

**FIRST SPONSOR:** Rep. Wolkins

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) The bill provides that a utility that:

- (1) either provides or receives wholesale sewage service; and
- (2) negotiates to renew or enter into a new contract for wholesale sewage service on expiration of a contract for the same wholesale sewage service;

may file a petition for review of the rates and charges for the wholesale sewage service with the Utility Regulatory Commission (IURC) or a court, but not both.

It provides that a utility that provides wholesale sewage service may not: (1) intervene; or (2) use utility funds or assets; in a proceeding before the Department of Environmental Management (IDEM) that may terminate the need of another utility to remain connected to the works of the wholesale provider.

The bill deposits into the public utility fund certain expense reimbursements paid by municipal utilities for investigations conducted by the IURC. (Under current law, the amounts paid are deposited in the State Treasury.)

The bill also provides that a contract for the construction of a municipal sewage works may not require certain landowners to waive the right to remonstrate against annexation by the municipality.

For purposes of the statute that allows extraterritorial customers of certain municipally owned water or wastewater utilities to petition the IURC for a review of rates and charges, the bill specifies that "rates and charges" are those charges made by a municipality for a service rendered or to be rendered by the municipality's utility, regardless of whether the rates and charges are: (1) imposed through a compact fee or any similar

arrangement, or referred to as a compact fee or by any other term; or (2) are based, in whole or in part, on the assessed value of the property served by the utility.

For purposes of the same statute, it provides that with respect to a petition to the IURC for a review of rates and charges established in an ordinance adopted after March 31, 2012, a petition must be filed not more than 45 days (instead of 14 days under current law) after the date on which the ordinance is adopted.

The bill makes conforming amendments.

**Effective Date:** (Amended) Upon Passage; January 1, 2013 (Retroactive).

**Explanation of State Expenditures:** The Utility Regulatory Commission (IURC) or a court may experience increased administrative costs to review rates and charges for wholesale sewage services. The amount of the increase is indeterminate, but will be based on the number of cases brought concerning wholesale rates.

(Revised) Also, extraterritorial customers may file more petitions to the IURC due to the definition of rates and charges in the bill and due to the increase under the bill in the time allowed before a petition must be filed.

The IURC is authorized under existing law to offset any expenses by charging a municipal utility for the expenses of an investigation.

**Explanation of State Revenues:** *Commission Public Utility Fund:* Under the bill, expense reimbursement paid by municipal utilities to the IURC would be deposited into the Commission Public Utility Fund rather than the state General Fund.

The amount that would be placed in the fund that pays for IURC operations is indeterminate based on prior year deposits. The following table indicates the amounts that have been received by the IURC. [Note: The amounts may increase under the bill to include expenses for sewage rate cases which currently are not included in the types of cases the IURC may review.]

FY	Expense Reimbursement
2010	\$147,171
2011	215,015
2012	436,700

*Circuit or Superior Courts:* If the municipal utility files a petition for review in a circuit or superior court and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation

for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Circuit or Superior Courts:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

**State Agencies Affected:** IURC; circuit or superior courts.

**Local Agencies Affected:** Wastewater utilities; trial courts.

**Information Sources:** State Auditor's Data.

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